

§ 76.701

must demonstrate either a substantial problem with theft of basic tier service or a strong need to scramble basic signals for other reasons. As part of this showing, cable operators are required to notify subscribers by mail of waiver requests. The notice to subscribers must be mailed no later than thirty calendar days from the date the request waiver was filed with the Commission, and cable operators must inform the Commission in writing, as soon as possible, of that notification date. The notification to subscribers must state:

On (date of waiver request was filed with the Commission), (cable operator's name) filed with the Federal Communications Commission a request for waiver of the rule prohibiting scrambling of channels on the basic tier of service. 47 CFR 76.630(a). The request for waiver states (a brief summary of the waiver request). A copy of the request for waiver is on file for public inspection at (the address of the cable operator's local place of business).

Individuals who wish to comment on this request for waiver should mail comments to the Federal Communications Commission by no later than 30 days from (the date the notification was mailed to subscribers). Those comments should be addressed to the: Federal Communications Commission, Media Bureau, Washington, DC 20554, and should include the name of the cable operator to whom the comments are applicable. Individuals should also send a copy of their comments to (the cable operator at its local place of business). Cable operators may file comments in reply no later than 7 days from the date subscriber comments must be filed.

(b) Cable system operators that provide their subscribers with cable system terminal devices and other customer premises equipment that incorporates remote control capability shall permit the remote operation of such devices with commercially available remote control units or otherwise take no action that would prevent the devices from being operated by a commercially available remote control unit. Cable system operators are advised that this requirement obliges them to actively enable the remote control functions of customer premises equipment where those functions do not operate without a special activation procedure. Cable system operators may, however, disable the remote control functions of a subscriber's cus-

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tomers premises equipment where requested by the subscriber.

NOTE 1 TO § 76.630: The provisions of paragraphs (a) and (b) of this section are applicable July 31, 1994, and June 30, 1994, respectively.

NOTE 2 TO § 76.630: § 76.1621 contains certain requirements pertaining to a cable operator's offer to supply subscribers with special equipment that will enable the simultaneous reception of multiple signals.

NOTE 3 TO § 76.630: § 76.1622 contains certain requirements pertaining to the provision of a consumer education program on compatibility matters to subscribers.

NOTE 4 TO § 76.630: Cable operators must comply with the notification requirements pertaining to the waiver of the prohibition against scrambling and encryption, and comply with the public file requirement in connection with such waiver.

[59 FR 25342, May 16, 1994, as amended at 61 FR 18510, Apr. 26, 1996; 65 FR 53616, Sept. 5, 2000; 67 FR 1650, Jan. 14, 2002; 67 FR 13235, Mar. 21, 2002]

Subpart L—Cable Television Access

§ 76.701 Leased access channels.

(a) Notwithstanding 47 U.S.C. 532(b)(2) (Communications Act of 1934, as amended, section 612), a cable operator, in accordance with 47 U.S.C. 532(h) (Cable Consumer Protection and Competition Act of 1992, section 10(a)), may adopt and enforce prospectively a written and published policy of prohibiting programming which, it reasonably believes, describes or depicts sexual or excretory activities or organs in a patently offensive manner as measured by contemporary community standards.

(b) A cable operator may refuse to transmit any leased access program or portion of a leased access program that the operator reasonably believes contains obscenity, indecency or nudity.

NOTE TO PARAGRAPH (b): "Nudity" in paragraph (b) is interpreted to mean nudity that is obscene or indecent.

[62 FR 28373, May 23, 1997, as amended at 64 FR 35950, July 2, 1999]

§ 76.702 Public access.

A cable operator may refuse to transmit any public access program or portion of a public access program that